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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,561

02/21/2006

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EXAMINER

ST CYR, DANIEL

ART UNIT

PAPER NUMBER

2876

MAIL DATE

DELIVERY MODE

08/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,561	<b>Applicant(s)</b> LAUFER ET AL.	
	<b>Examiner</b> Daniel St.Cyr	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 17-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-19, 24-29 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 20-23 and 30-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/27/06, 3/13/06, 3/23/06</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The abstract of the disclosure is objected to because it is not separated in a single sheet of paper. Correction is required. See MPEP § 608.01(b).

### **Preliminary Amendment**

3. It is noted that a preliminary amendment was filed on 3/31/06 in which claims 1-17 were canceled and 18-36 were added.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 17-19, 24-29, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Aryeh, US Patent No. 6,445,303.

Aryeh discloses an apparatus and method for producing an electric shock to wake sleeping driver comprising: a device 10 for producing an electric shock to wake a sleeping driver of a motor vehicle, the device 10 is comprised of a sensor 12 which senses the driver's pulse and is worn around one of the driver's wrists, the sensor 12 is

Art Unit: 2876

coupled to a monitor 14 that monitors the driver's pulse; the monitor 14 includes a display window 16 and at least one control button 18 for programming and operating device 10; the monitor 14 is coupled to a shocking element 20 that is fabricated as part of or is coupled to a vehicle steering wheel 22; when the monitor 14 senses that the driver's pulse indicates that the driver has fallen asleep, it causes shocking element 20 to produce a low current, electric shock to wake the sleeping driver and prevent the driver from causing an accident (in order to prevent or detect a low level pulse values, threshold values must be stored in the system for making necessary comparison), the structure of Aryeh is capable of performing the method steps as set forth in the claims. (See figs. 1-4 and col. 2, line 30+).

***Allowable Subject Matter***

6. Claims 20-23 and 30-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record teaches a system and method for diagnosing drivers' pulse which includes a sensor element for sensing the current pulse of a driver, a display, a shocking element to electrically shocking a sleeping driver, etc., the prior art of record fails to disclose or fairly suggests all the details of the operation including selectively deleting stored requirements after pulse execution register has been taking into account or after the requirements have been transferred to the diagnosis pulse execution register. These limitations in conjunction with other limitations in the claims

Art Unit: 2876

were not shown by, would not have obvious over, nor would have been fairly suggested by the prior art of record.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 6,731,925; 6,791,462.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS  
August 27, 2009

Application/Control Number: 10/566,561

Page 5

Art Unit: 2876

/Daniel St.Cyr/

Primary Examiner, Art Unit 2876